

State of California  
BOARD OF EQUALIZATION  
SALES AND USE TAX REGULATIONS

**Regulation 1703. INTEREST AND PENALTIES.**

*Reference:* Sections 6071, 6072, 6073, 6074, 6077, 6094.5, 6207, 6291-6294, 6422.1, 6452, 6455, 6459, 6476-6478, 6479.3, 6480.4, 6480.8, 6480.19, 6482, 6484, 6485, 6485.01, 6511-6514, 6514.1, 6537, 6565, 6591, 6591.5, 6592, 6593, 6593.5, 6596, 6901, 6907, 6908, 6936, 6964, 7051.2, 7076.5, 7101, 7152, 7153, 7153.5, and 7155, Revenue and Taxation Code

**(a) STATUTORY PROVISIONS.** Interest and penalties are prescribed in various sections of the Sales and Use Tax Law as follows:

SUBJECT	SECTIONS	
	INTEREST	PENALTIES
Failure to pay tax within required time (except determinations)	6480.4, 6480.8 6480.19, 6591	6476, 6477, 6478, 6479.3, 6480.4, 6480.8, 6480.19, 6591, 7051.2
Failure to file a timely return		6479.3, 6591
Deficiency determinations	6482	6484 (negligence) 6485 (fraud) 7051.2
Determination—failure to make return	6513	6511, 7051.2 6514 (fraud)
Jeopardy determinations	6537	6537, 7051.2
Extensions of time	6459	
Determinations—Nonpayment of		6565, 7051.2
Offsets	6512	6512
Refunds and credits	6901, 6907 6908	6901
Suits for refund	6936	
Disposition of interest and penalties	7101	7101
Criminal Penalties		6073, 6094.5, 6422.1, 7152, 7153, 7153.5
Failure to make timely application for registration of motor vehicle, mobilehome, aircraft or undocumented vessel	6291-6294	6291-6294
Registration of vehicle, vessel or aircraft out of state		6485.1, 6514.1 (intent to evade)
Advertising that use tax will be absorbed		6207
Any violation of Sales and Use Tax Law		7153, 7153.5
Failure to collect use tax		6207
Failure to display use tax separately		6207
Failure to furnish return or other data		6452, 6455
Improper use of resale certificates	6072	6072, 6094.5
Making false return		7152
Misuse of vehicle use tax exemption certificates		6422.1
Operating as seller without permit		6071, 6077
Failure to obtain valid permit		6077, 7155
Relief from interest or penalty	6593, 6596	6592, 6596
Modified adjusted rate	6591.5	
Failure to obtain evidence that operator of catering truck holds valid permit		6074
Improper allocation of local tax by direct payment permitholder		7051.2

**Regulation 1703. (Continued)**

SUBJECT	SECTIONS	
	INTEREST	PENALTIES
Managed Audit Program	7076.5	
Failure to pay tax due to an error or delay by an employee of the Board or Department of Motor Vehicles	6593.5	
Erroneous refund	6964	

**(b) INTEREST.**

**(1) INTEREST RATES.**

**(A) In General.** Interest is computed at the modified adjusted rate per month, or fraction thereof. "Modified adjusted rate per month, or fraction thereof" means the modified adjusted rate per annum divided by 12.

**(B) Underpayments.** "Modified adjusted rate per annum" for underpayments of tax is the rate for underpayments determined in accordance with the provisions of section 6621 of the Internal Revenue Code plus three percentage points. Such rate is subject to semiannual modification pursuant to the provisions of subparagraph (c) of section 6591.5 of the Revenue and Taxation Code.

**(C) Overpayments.** Except as provided below, "modified adjusted rate per annum" for overpayments of tax is the bond equivalent rate of 13-week treasury bills auctioned, rounded to the nearest full percent (or to the next highest full percent if .50%), subject to semiannual modification pursuant to the provisions of subparagraph (d) of section 6591.5 of the Revenue and Taxation Code. For the period July 1, 1991, through June 30, 1992, the modified adjusted rate per annum for overpayments is equal to the bond equivalent rate of 13-week treasury bills auctioned on July 1, 1991, rounded to the nearest full percent (or to the next highest full percent if 0.50%).

**(D) Managed Audit Program.** Upon completion of the managed audit and verification by the Board, interest shall be computed at one-half the rate that would otherwise be imposed for liabilities covered by the audit period.

**(E) Error or Delay by Employee of Board or Department of Motor Vehicles.** For tax liabilities that arise during taxable periods commencing on or after July 1, 1999, the Board, in its discretion, may relieve all or any part of the interest imposed on a person by sections 6480.4, 6480.8, 6513, 6591, and 6592.5 of the Revenue and Taxation Code under either of the following circumstances:

1. Where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the Board acting in his or her official capacity.

2. Where failure to pay use tax on a vehicle or vessel registered with the Department of Motor Vehicles was the direct result of an error by the Department of Motor Vehicles in calculating the use tax.

For the purposes of this subdivision, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

Any Person seeking relief under this subdivision shall file with the Board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the Board may require.

**(F) Erroneous Refund.** Operative for any action for recovery under Revenue and Taxation Code section 6961 on or after July 1, 1999, no interest shall be imposed on the amount of an erroneous refund by the Board until 30 days after the date on which the Board mails a notice of determination for repayment of the erroneous refund if the Board finds that neither the person liable for payment of tax nor any party related to that person had in any way caused an erroneous refund for which an action for recovery is provided under section 6961 of the Revenue and Taxation Code. The act of filing a claim for refund shall not be considered as causing the erroneous refund.

**(2) LATE PAYMENTS GENERALLY.** Interest applies to the amount of all taxes, except prepayments of amounts of tax due and payable pursuant to section 6471 of the Revenue and Taxation Code, not paid within the time required by law from the date on which the amount of tax became due and payable until the date of payment.

Interest applies to amounts due but not paid by any distributor or broker of motor vehicle fuel who fails to make a timely remittance of the prepayment of tax required pursuant to sections 6480.1 and 6480.3 of the Revenue and Taxation Code.

Operative January 1, 1992, interest applies to amounts due but not paid by any producer, importer, or jobber of fuel as defined in section 6480.10 of the Revenue and Taxation Code who fails to make a timely remittance of the prepayment of tax required pursuant to sections 6480.16 and 6480.18 of the Revenue and Taxation Code.

**Regulation 1703. (Continued)**

(3) **DETERMINATIONS.** Except as otherwise provided in subdivisions (b)(1)(E) and (b)(1)(F) above, interest applies to all determinations from the date on which the amount of tax becomes due and payable until the date of payment.

(4) **EXTENSIONS OF TIME.** In cases in which an extension of time for the filing of a return and the payment of tax has been granted, interest applies from the date on which the tax would have been due and payable had the extension not been granted until the date of payment. In cases in which an extension of time has been granted for making a prepayment of tax pursuant to section 6471 of the Revenue and Taxation Code, interest applies to the unpaid amount of the required prepayment at the same rate.

(5) **REFUNDS AND CREDITS.**

**(A) In General.** If an overpayment is credited on amounts due from any person or is refunded, interest will be computed on the overpayment from the first day of the calendar month following the month during which the overpayment was made. A refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited. Interest will be paid in the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the Board that a claim may be filed or the date upon which the refund is approved by the Board, whichever date is the earlier; and in the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

**(B) Intentional or Careless Overpayments.** Credit interest will be allowed on all overpayments, except when statutorily prohibited or in cases of intentional overpayment, fraud, negligence, or carelessness. Carelessness occurs if a taxpayer makes an overpayment which: 1) is the result of a computational error on the return or on its supporting schedules or the result of a clerical error such as including receipts for periods other than that for which the return is intended, failing to take allowable deductions, or using an incorrect tax rate; and 2) is made after the taxpayer has been notified in writing by the Board of the same or similar errors on one or more previous returns.

**(C) Waiver of Interest as Condition of Deferring Action on Claim.** If any person who has filed a claim for refund requests the Board to defer action on the claim, the Board, as a condition to deferring action, may require the claimant to waive interest for the period during which the person requests the Board to defer action.

(6) **IMPROPER USE OF RESALE CERTIFICATE.** Interest applies to the taxes imposed upon any person who knowingly issues a resale certificate for personal gain or to evade the payment of taxes while not actively engaged in business as a seller. The interest is computed from the last day of the month following the quarterly period for which a return should have been filed and the amount of tax or any portion thereof should have been paid.

(7) **UNTIMELINESS CAUSED BY DISASTER.** A person may be relieved of the interest imposed by sections 6459, 6480.4, 6480.8, 6513, and 6591 of the Revenue and Taxation Code if the Board finds that the person's failure to make a timely return or payment was occasioned by a disaster and was neither negligent nor willful. Such person shall file with the Board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

For purposes of this section "disaster" means fire, flood, storm, tidal wave, earthquake or similar public calamity, whether or not resulting from natural causes.

**(c) PENALTIES.**

(1) **LATE PAYMENTS GENERALLY.**

**(A) Prepayments.**

1. Any person required to make a prepayment who fails to make a prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due and who files a timely return and payment for that quarterly period shall pay a penalty of 6 percent of the amount equal to 90 percent or 95 percent of the tax liability, as prescribed in section 6471 of the Revenue and Taxation Code, for each of the periods during that quarterly period for which a required prepayment was not made.

2. If the failure to make a prepayment as described in (c)(1)(A)1. above is due to negligence or intentional disregard of the Sales and Use Tax Law or authorized regulations, the penalty shall be 10 percent instead of 6 percent.

3. Any person required to make a prepayment who fails to make a timely prepayment, but who makes such prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due, shall pay a penalty of 6 percent of the amount of the prepayment.

**Regulation 1703.** *(Continued)*

4. If any part of a deficiency in prepayment is due to negligence or intentional disregard of the Sales and Use Tax Law or authorized regulations, a penalty of 10 percent of the deficiency shall be paid.

The penalties provided in subparagraphs 2 and 4 of this subsection shall not apply to amounts subject to the provisions of sections 6484, 6485, 6511, 6514, and 6591 of the Revenue and Taxation Code (subparagraphs (c)(1)(B), (c)(2)(A) and (c)(2)(B) of this regulation).

5. A penalty of 25% shall apply to the amount of prepayment due but not paid by any distributor or broker of motor vehicle fuel who fails to make a timely remittance of the prepayment as required pursuant to sections 6480.1 and 6480.3 of the Revenue and Taxation Code.

6. Operative January 1, 1992, a penalty of 10 percent shall apply to the amount of prepayment due but not paid by any producer, importer, or jobber of fuel as defined in section 6480.10 of the Revenue and Taxation Code who fails to make a timely remittance of the prepayment as required pursuant to sections 6480.16 and 6480.18 of the Revenue and Taxation Code. This penalty shall be 25 percent if the producer, importer, or jobber knowingly or intentionally fails to make a timely remittance.

**(B) Other Late Payments.** A penalty of 10 percent of the amount of all unpaid tax shall be added to any tax not paid in whole or in part within the time required by law.

**(C) Vehicles, Vessels and Aircraft.** A purchaser of a vehicle, vessel or aircraft who registers it outside this state for the purpose of evading the payment of sales or use taxes shall be liable for a penalty of 50 percent of any tax determined to be due on the sales price of the vehicle, vessel or aircraft.

**(2) LATE RETURN FORMS GENERALLY**

**(A)** Any person who fails to file a return in accordance with the due date set forth in section 6451 of the Revenue and Taxation Code or the due date established by the Board in accordance with section 6455 of the Revenue and Taxation Code, shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

**(B)** Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the Board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

**(3) DETERMINATIONS.**

**(A) Negligence or Intentional Disregard.** A penalty of 10 percent of the amount of the tax specified in the determination shall be added to deficiency determinations if any part of the deficiency for which the determination is imposed is due to negligence or intentional disregard of the Sales and Use Tax Law or authorized regulations.

**(B) Failure to Make Return.** A penalty of 10 percent of the amount of tax specified in the determination shall be added to all determinations made on account of the failure of any person to make a return as required by law.

**(C) Fraud or Intent to Evade.** A penalty of 25 percent of the amount of the tax specified in a deficiency determination shall be added thereto if any part of the deficiency for which the determination is made is due to fraud or intent to evade the Sales and Use Tax Law or authorized regulations. In the case of a determination for failure to file a return, if such failure is due to fraud or an intent to evade the Sales and Use Tax Law or authorized regulations, a penalty of 25 percent of the amount required to be paid, exclusive of penalties, shall be added thereto in addition to the 10 percent penalty for failure to file a return.

A penalty of 50 percent applies to the taxes imposed upon any person who, for the purpose of evading the payment of taxes, knowingly fails to obtain a valid permit prior to the date in which the first tax return is due. The 50 percent penalty applies to the taxes determined to be due for the period during which the person engaged in business in this state as a seller without a valid permit and may be added in addition to the 10 percent penalty for failure to file a return. However, the 50 percent penalty shall not apply if the measure of tax liability over the period during which the person was engaged in business without a valid permit averaged \$1,000 or less per month. Also, the 50 percent penalty shall not apply to the amount of taxes due on the sale or use of a vehicle, vessel, or aircraft, if the amount is subject to the penalty imposed by section 6485.1 or 6514.1 of the Revenue and Taxation Code.

**(D) Nonpayment of Determinations.** A penalty of 10 percent of the amount of the tax specified in the determination shall be added to any determination not paid within the time required by law.

**Regulation 1703. (Continued)**

(4) **IMPROPER USE OF RESALE CERTIFICATE.** A penalty of 10 percent applies to the taxes imposed upon any person who knowingly issues a resale certificate for personal gain or to evade the payment of taxes while not actively engaged in business as a seller.

The penalty is 10 percent of the amount of tax or \$500, whichever is greater, if the purchase is made for personal gain or to evade payment of taxes.

(5) **DIRECT PAYMENT PERMITS.** Every holder of a direct payment permit who gives an exemption certificate to a retailer for the purpose of paying that retailer's tax liability directly to the Board must make a proper allocation of that retailer's local sales and use tax liability and also its district transactions and use tax liability if applicable. Such allocation must be made to the cities, counties, city and county, redevelopment agencies, and district to which the taxes would have been allocated if they had been reported by that retailer. Allocations must be submitted to the Board in conjunction with the direct payment permitholder's tax return on which the taxes are reported. If the local and district taxes are misallocated due to negligence or intentional disregard of the law, a penalty of 10 percent of the amount misallocated shall be imposed.

(6) **FAILURE TO OBTAIN EVIDENCE THAT OPERATOR OF CATERING TRUCK HOLDS VALID SELLER'S PERMIT.** Any person making sales to an operator of a catering truck who has been required by the Board pursuant to section 6074 of the Revenue and Taxation Code to obtain evidence that the operator is the holder of a valid seller's permit issued pursuant to section 6067 of the Revenue and Taxation Code and who fails to comply with that requirement shall be liable for a penalty of five hundred dollars for each such failure to comply.

(7) **FAILURE OF RETAIL FLORIST TO OBTAIN PERMIT.** Any retail florist (including a mobile retail florist) who fails to obtain a seller's permit before engaging in or conducting business as a seller shall, in addition to any other applicable penalty, pay a penalty of five hundred dollars (\$500). For purposes of this regulation, "mobile retail florist" means any retail florist who does not sell from a structure or retail shop, including, but not limited to, a florist who sells from a vehicle, pushcart, wagon, or other portable method, or who sells at a swap meet, flea market, or similar transient location. "Retail florist" does not include any flower or ornamental plant grower who sells his or her own products.

(8) **RELIEF FROM PENALTY FOR REASONABLE CAUSE.** If the Board finds that a person's failure to make a timely return, payment, or prepayment, or failure to comply with the provisions of section 6074 of the Revenue and Taxation Code is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by sections 6074, 6476, 6477, 6480.4, 6480.8, 6511, 6565, 6591, and 7051.2 of the Revenue and Taxation Code for such failure.

Any person seeking to be relieved of the penalty shall file with the Board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based. Section 6592 of the Revenue and Taxation Code, providing for the relief of certain penalties does not apply to the 10 percent penalty imposed for failure to make a timely prepayment under section 6478 of the Revenue and Taxation Code.

*History:* Amended September 18, 1963.

Amended August 2, 1965, applicable on and after August 1, 1965.

Amended June 23, 1966, applicable as amended on and after July 1, 1966.

Amended November 7, 1967, applicable on and after November 8, 1967.

Amended October 8, 1968.

Amended and renumbered November 3, 1969, effective December 5, 1969.

Amended December 17, 1975, effective January 1, 1976. Changed  $\frac{1}{2}\%$  interest to 1% per month.

Amended June 25, 1981, effective November 1, 1981. Added references. In (a) added section 6072, improper use of resale certificates and section 6593, leases to the U.S. Government. Added (b)(5) improper use of resale certificate. Added (b)(6) untimeliness caused by natural disaster. Added (b)(7) leases to the U.S. Government. In (c)(2) added (E) improper use of resale certificate. In (c) added (4) leases to the U.S. Government.

Amended February 3, 1983, effective July 3, 1983. In subdivision (a), deleted reference to section 6053 and added the last line. In subdivision (b)(1), deleted reference to the rate of interest and added second paragraph. In subdivision (b)(2), (3) and (4), deleted reference to rate of interest. In subdivision (b)(5), deleted reference to rate of interest and added last sentence. In subdivision (b)(6), deleted reference to "NATURAL" and added reference to relief from interest and definition of "disaster".

## Regulation 1703. (Continued)

- Amended October 9, 1985, effective February 9, 1986. In subdivision (a), added reference to Revenue and Taxation Code sections 6291-6294, and 6591.5 under "Interest" with short explanation under "subject;" and sections 6291-6292, 6985.1, and 6514.1 (intent to evade) under "Penalties" with short explanation under "subject." In subdivision (b)(4), obsolete language is stricken and subheadings are added. In subdivision (b)(5), deleted language concerning when interest is computed in last sentence and added language beginning "last day of the month . . ." In subdivision (b)(7), deleted reference to interest with respect to leases to the United States Government. In subdivision (c), deleted obsolete provisions and updated text to show when penalties apply to prepayments and purchases of vehicles, vessels, or aircraft when registered outside the state for purpose of evading the payment of sales or use tax.
- Amended August 20, 1987, effective November 15, 1987. In subdivision (a), added references to sections 6073, 6074 and 7051.2. In subdivision (c)(2)(C), added second paragraph pertaining to 50% penalty for fraud. Added subdivision (c)(4) pertaining to the penalties associated with a direct payment permit holder's improper allocation of a retailer's local tax liability due to the direct payment permit holder's negligence or intentional disregard of the law. Added subdivision (c)(5) pertaining to the penalty associated with the failure to obtain evidence that an operator of a catering truck holds a valid seller's permit. In subdivision (c)(6), added sections 6074 and 7051.2 to the list of penalty provisions for which the Board may grant relief for reasonable cause.
- Amended July 27, 1988, effective November 11, 1988. In subdivision (a), added provisions that pertain to the interest and penalty provisions found in Revenue and Taxation Code section 7153.5 (Chapter 1064, Statutes of 1987).
- Amended August 26, 1992, effective January 20, 1993. Paragraph (a) updated the list of Sales and Use Tax Law sections prescribing interest and penalties. Paragraph (b)(1) added explanation of procedures for computing interest on overpayments and under payments. Paragraphs (b)(2) and (c)(1)(A) 6 added explanation of application of interest and penalties to amounts due but not paid on sale of fuel as provided in sections 6480.16, Revenue and Taxation Code.
- Amended May 19, 1997, effective June 18, 1997. Added new subdivision (c)(6) to incorporate provisions of Chapter 1130, Statutes of 1996, and renumbered the following subdivision.
- Amended September 2, 1998, effective October 2, 1998. In subdivision (a), added references to sections 6479.3, 6591, and 7076.5. Added new subdivision (b)(1)(D) to incorporate provisions of Chapter 686, Statutes of 1997. Added subdivision (c)(2) to incorporate provisions of Chapter 1294, Statutes of 1992 and Chapter 1087, Statutes of 1996, and renumbered following subdivisions.
- Amended March 18, 1999, effective April 17, 1999. Reference to section 6479.3 added to subdivision (a) to correct clerical omission in previous amendment. Added cross references in subdivision (a) to sections 6593.5 & 6964 and added subdivision (b)(1)(E) & (F) to incorporate provisions of Assembly Bill 821, Statutes 1998, Chapter 612. Clerical amendments made to un-numbered paragraph in subdivision (c)(1)(A)4. Phrase "of the Revenue and Taxation Code" added to section numbers throughout; references to "Sales and Use Tax Law" deleted from subdivisions (c)(6) and (c)(8).
- Amended October 6, 1999, effective January 8, 2000. Subdivision (b)(5)(B) "Intentional and Careless Overpayments," old language deleted; new language concerning when credit interest will be allowed on overpayments added.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*